



California Regional Water Quality Control Board

Santa Ana Region



Linda S. Adams
*Secretary for
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Arnold Schwarzenegger
Governor

May 5, 2010

Ms. Jan Peterson
Donahue Scriber Realty Group, Inc.
2300 E. Baker Street, Suite 100
Costa Mesa, CA 92626

**REVISED CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR INTERSTATE-215 (I-215) WEST PERIMETER DRAINAGE
IMPROVEMENT PROJECT, MENIFEE, RIVERSIDE COUNTY (CORPS FILE NO. NOT
AVAILABLE) (SARWQCB REFERENCE NOS. 332009-02 & 332009-23)**

Dear Ms. Peterson:

On February 2, 2009 through December 8, 2009, we received application information for a Clean Water Act Section 401 Water Quality Standards Certification ("Certification") for the proposed west perimeter drainage improvement project. The project is between and generally parallel to the Menifee Countryside Market Place (a recently completed retail shopping center) and the western side of the I-215 southbound on-ramp from Newport Road, between Newport Road and La Piedra Road within the City of Menifee, Riverside County. This letter responds to your request for certification that the proposed project, described in the application and summarized below, will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) and subsequent Basin Plan amendments ("Basin Plan"):

Project Description: A 60-inch storm drain will be installed to replace approximately 2,600 LF of the existing Caltrans earthen drainage ditch, within Caltrans' right-of-way along the west side of the 215 freeway, in the City of Menifee, County of Riverside, California. The storm drain pipeline will use a transition structure to connect to the west barrel of the existing double 8-ft by 4-ft RCB culvert. Drain inlets will be provided at intervals along the storm drain to collect surface runoff from the freeway.

These facilities will collect runoff from the freeway and areas west of the freeway that has historically drained into an existing earthen drainage ditch along the west side of the I-215. Approximately 12,000 cubic yards of clean earthen fill dirt will be used to fill the existing drainage.

California Environmental Protection Agency



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The project is located within Section 3 of Township 6 South and Range 3 West of the U.S. Geological Survey *Romoland, California*, 7.5-minute topographic quadrangle map (117° 10' 13.33" W/ 33° 40' 34.53" N).

Receiving Waters: Paloma Channel and Salt Creek, tributary to Railroad Canyon Reservoir, San Jacinto River, Lake Elsinore, Temescal Wash, Santa Ana River.

Fill Area: 0.374 acre of permanent impact (2,627 linear feet).

Dredge Volume: 12,000 cubic yards.

Federal Permits: US Army Corps of Engineers Nationwide Permit No. 39.

You have proposed to mitigate water quality impacts as described in your Certification application. The proposed mitigation is summarized below:

Onsite Water Quality Standards Mitigation Proposed:

- Best Management Practices ("BMPs") will be specified in the project Storm Water Pollution Prevention Plan ("SWPPP").
- Any impacted areas will be re-vegetated with native vegetation.
- A pre-construction survey for the burrowing owl will be conducted to avoid potential effects to the species. Should survey results indicate the existence of the species, construction activities will be performed outside the nesting/rearing season.

Offsite Water Quality Standards Mitigation Proposed:

- The discharger will pay an in-lieu fee sufficient to fund the eradication of *Arundo donax* on 0.74 acres within the Santa Ana River Watershed. The funds will be provided to the Santa Ana Watershed Association and/or the Riverside County Regional Parks and Open Space District.

Should the proposed project impact state- or federally-listed endangered species or their habitat, implementation of measures identified in consultation with U.S. Fish and Wildlife Service and the California Department of Fish and Game will ensure those impacts are mitigated to an acceptable level.



Appropriate BMPs will be implemented to reduce construction-related impacts to Waters of the State in compliance with the requirements of State Water Resources Control Board Order No. 2009-0009, General Permit for Discharges of Storm Water Associated with Construction Activities, including the preparation of a SWPPP.

Post-construction water quality impacts resulting from the use of the I-215 right-of-way drainage improvement project that is certified by this document are addressed by waste discharge requirements issued to the Department of Transportation by the State Water Resources Control Board in Order No. 99-06 DWQ, and subsequent iterations thereof. These requirements include the development and implementation of appropriate Best Management Practices for the purpose of removing transportation-related pollutants from discharges from Caltrans' rights-of-way and easements.

This Water Quality Certification is subject to the acquisition of all local, regional, state, and federal permits and approvals as required by law. Failure to meet any conditions contained herein, or any conditions contained in any other permit or approval for this project issued by the State of California, or any subdivision thereof, may result in appropriate enforcement action, including imposition of administrative civil liability.

You have applied for a permit from the U.S. Army Corps of Engineers, in compliance with Clean Water Act Section 404. The proposed project is subject to U.S. Army Corps of Engineers' CWA Section 404 Nationwide Permit 39. The City of Menifee approved an addendum to a California Environmental Quality Act (CEQA) Supplemental Environmental Impact Report for the project, in 2006. At the request of the Regional Board, an addendum to the CEQA report was prepared and approved on January 28, 2009. The Regional Board has considered the 2006 Supplemental Environmental Impact Report and its subsequent 2009 addendum in the issuance of this Certification.

This 401 Certification is contingent upon the execution of the following conditions:

- 1) The applicant must comply with the requirements of the applicable Clean Water Act Section 404 permit.
- 2) Areas that are permanently impacted shall be mitigated as proposed.
- 3) A copy of this Certification and any subsequent amendments must be maintained on site for the duration of work.
- 4) The discharger shall pay an in-lieu fee sufficient to fund the eradication of *Arundo donax* on 0.74 acres within the Santa Ana River Watershed to the Santa Ana Watershed Association and/or the Riverside County Regional Parks and Open Space District. The discharger shall submit documentation of payment of the in-lieu fee to this office within 120 days of the issuance of this certification.



Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:

- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

If the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, the Regional Board may require the applicant to submit a report of waste discharge and obtain Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the holder of any permit or license subject to this certification shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification. Violations of the conditions of this certification may subject the applicant to civil liability pursuant to Water Code section 13350 and/or 13385.

This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law.



This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 200-0017-DWQ is available at:
www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf

Should there be any questions, please contact Marc Brown at (951) 321-4584, or Mark Adelson at (951) 782-3234.

Sincerely,



GERARD J. THIBEAULT
Executive Officer

cc (via electronic message):

U. S. Army Corps of Engineers, Los Angeles Office – Mark Durham
State Water Resources Control Board, OCC – David Rice
State Water Resources Control Board, DWQ – Water Quality Certification Unit
U.S. EPA – Supervisor of the Wetlands Regulatory Office WTR- 8
CA Dept. of Fish & Game – Anna Milloy

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